

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 841 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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NATVARJI @ NATUJI PUNJAJI THAKOR

Versus

COMMISSIONER OF POLICE

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Appearance:

MS DR KACHHAVAH for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 12/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 29th December, 1998, made by the Commissioner of Police, Ahmedabad City, under the powers

conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are found to be prejudicial to the maintenance of public order. Three offences punishable under the Bombay Prohibition Act are registered against the petitioner, one of which is pending trial. In each of the cases, the petitioner was found to be in possession of country liquor. Besides, two witnesses, on assurance of anonymity, have given statements in respect of the anti-social activities of the petitioner and its adverse effect on the public tranquility and the even tempo of life, and they have particularly referred to the incidents of 30th November, 1998 and 5th December, 1998 respectively. In both the said incidents the petitioner is alleged to have beaten the concerned witness and to have issued threat to the witness and members of the public gathered on the spot. The petitioner is also alleged to have used a lethal weapon.

The only ground on which the petition is required to be allowed is non-supply of vital documents to the petitioner. From the grounds of detention, it is manifest that in respect of the offences registered as CR.No. 5009/98 and CR. No. 5104/98 the petitioner had applied for release on bail and the said applications were granted by the concerned court. Though the said fact has been taken into consideration, the application for bail made by the petitioner in respect of CR No. 5104/98 and the order made thereon had not been supplied to the petitioner. It can not be gainsaid that the documents referred to and relied upon by the Detaining Authority for recording the subjective satisfaction are required to be supplied to the petitioner as well. In absence of such documents, the petitioner's right to make an effective representation would be seriously prejudiced. The continued detention of the petitioner is, therefore, vitiated.

Petition is, therefore, allowed. The order dated 29th December, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI